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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE, Plaintiff and Respondent, v. CAMERON JOSEPH BACA, Defendant and Appellant.	G044535 (Super. Ct. No. 08HF2452) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, David A. Thompson, Judge. Affirmed.

Allen G. Weinberg, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Julie Garland, Assistant Attorney General, Lilia E. Garcia and Lynne G. McGinnis, Deputy Attorneys General, for Plaintiff and Respondent.

* * *

A jury convicted Cameron Joseph Baca of eight counts of committing lewd acts on a child under 14 years of age (Pen. Code, § 288, subd. (a); all statutory references are to the Penal Code unless noted), one count of attempting to commit a lewd act (§§ 288, subd. (a); 664), three counts of exhibiting harmful matter to a minor (§ 288.2, subd. (a)), and possession of child pornography (§ 311.11, subd. (a)). Baca contends insufficient evidence exists to support his conviction for an attempted lewd act (count 14), the trial court should have stayed punishment (§ 654) for two counts of exhibiting harmful matter to a minor (counts 9 and 10), and his aggregate sentence of 51 years and four months to life in prison constitutes cruel and unusual punishment under the federal and state Constitutions. For the reasons expressed below, we affirm.

I

FACTUAL AND PROCEDURAL HISTORY

In 2004, Peter P. and his wife, Margaret, lived in San Juan Capistrano with their three children, Kyle, Grant, and Peter, Jr. Peter met Baca at a youth football game Baca was refereeing. Baca approached Peter and his youngest son, Peter, Jr., at the game and surprised Peter by stating, "This must be Grant's brother." Baca explained he remembered Grant from a prior youth basketball program. Peter later invited Baca to watch a college football game at Peter's house.

Baca became a close family friend. Peter, a certified public accountant, owned his own company. He offered Baca employment in 2005 and Baca worked at Peter's firm for just over two years. Baca also worked as an assistant basketball coach with Peter, and coached Peter's sons in flag football. Baca sometimes drove Peter's sons to practices. He often showed up at Peter's home uninvited.

Baca began spending more time alone with Grant. When Margaret and Peter refused to let Baca babysit the children while they took a vacation, Baca became upset. Peter's niece watched the children, and Baca called her complaining, "I should be doing this."

In July 2007, the P.'s terminated their relationship with Baca, concluding it had become "unhealthy." Margaret asked her sons if Baca ever acted inappropriately towards them, but they denied it.

Grant's behavior became erratic. In December 2008, he disclosed to his parents "something terrible" had happened, and said Baca had touched him. The following day, the P.'s informed the police.

Grant, 15 years old at the time of trial, testified Baca took him to trading card shops and bought him cards. Grant visited Baca's San Clemente apartment and helped cook the food. During these visits, Baca showed Grant pornographic videos. They also watched regular television shows, including the Simpsons.

No sexual contact occurred the first time Baca showed Grant pornography. Later, Baca touched Grant's penis over his clothes. More than once, he touched Grant's penis with his hand. On five to six occasions, Baca orally copulated Grant. He also asked Grant to orally copulate him, but Grant refused. Baca tried to get Grant to comply by telling the boy, "Don't be immature" and "I'm just trying to make you feel better." On one occasion, Baca told Grant he wanted to try something new, but Grant declined. Nevertheless, Baca inserted his finger into Grant's rear end. Before this incident occurred, Grant and Baca watched pornographic videos, and Baca told him not to tell anyone or he could get into a lot of trouble.

The last incident occurred at Baca's mother's home. Grant told Baca he "[didn't] want to do this anymore." Baca orally copulated Grant that day and then drove him home.

After informing the police, an investigator asked Grant to make a recorded phone call. During the first call, Grant asked Baca why he touched him, stating it made him feel uncomfortable. Baca responded, "I'm sorry." During a second call, Baca expressed concern someone might be listening to their conversation. He told Grant if anyone found out, he would go to jail forever. Grant asked Baca if "that [was his] finger . . . you put in my butt." Baca stated he wanted to discuss it in person, and again expressed concern someone might be listening to their conversation. He apologized to Grant, stating he "screwed up," and wanted to "kill" himself for what happened.

Gerald and Karin G. met Baca around 2006. Baca and Gerald coached youth sports together. Over time, Baca began spending more time with the G.'s two children, 12-year-old Garrett and his younger brother Griffin. **(**The G.'s considered Baca's behavior odd.

On one occasion, Baca asked Garrett to assist him with a catering job. Garrett enjoyed cooking and visited Baca's apartment to help cook their food. The first time he visited, they watched the Simpsons. On the second visit, Baca showed Garrett pornographic videos. One video depicted two children around Garrett's age. Baca told Garrett, "if you ever want to show me your penis, it's okay." He asked Garrett personal questions and informed Garrett he could grab a condom from his bathroom at anytime. Baca sat uncomfortably close to Garrett on the couch. Garrett scooted away and Baca told him to "stop being so immature." Baca stated he gave really good massages and wanted to give Garrett one. Garrett responded, "no, it's all right." Baca said "don't be so

immature," and Garrett put his face on a pillow. The massage began at Garrett's back and proceeded lower until Baca touched Garrett's bottom, which he rubbed for approximately 30 seconds. Baca told Garrett not to tell anyone or he could get in a lot of trouble. After the massage, Baca and Garrett watched pornography, and Baca asked Garrett if he liked it. He never touched Garrett's skin, or attempted to touch his penis.

On another occasion, Baca showed Garrett a movie entitled "Kids," which depicted an 18-year-old boy and a 13-year-old girl involved in sexual activities. On another visit, Baca showed Garrett pornography from his laptop computer at Garrett's home. Baca asked Garrett to crack his back in the presence of Garrett's friends Luke and Matt, and Griffin. After Garrett's friends left, Baca and Garrett watched pornography. Baca whispered to Garrett he had to come to Baca's place if he wanted to see more.

Baca hugged Garrett frequently, and teammates teased Garrett, asking whether it made him feel uncomfortable. Garrett's father confronted Baca and told him never to hug his child again. After this conversation, Baca visited Garrett's house less often, but continued to hug Garrett out of sight of his parents. One time Garrett told Baca he did not want to hug him. Baca responded, "stop being so immature and give me a hug." Baca took Garrett and his friends to sports card shops. He gave Garrett between 1,000 and 2,000 sports trading cards, including a Brett Favre rookie card.

Baca also coached 11-year-old Tanner L. in flag football. Baca befriended Tanner's family and came over to watch football games. He and Tanner watched television, threw a football, and played video games. At some point, Baca began visiting without an invitation. Baca became upset when Tanner's father told Baca he could not spend time with Tanner.

On one occasion, Baca received permission from Tanner's mother to drive Tanner to a sports card shop after telling her falsely another boy would be coming. On the drive home, Tanner rested his hand on the passenger seat. Baca placed his hand on top of Tanner's. Tanner moved his hand away and Baca responded "stop being immature," and "you can still put your hand there. I just like putting my hand there when I drive." Tanner responded, "that's okay," and kept his hand in his lap. Baca asked Tanner if his parents talked with him about sex yet, and said something like "what we talk about in the car stays in the car." Tanner notified his mother what happened when he arrived home.

Baca testified and admitted he orally copulated Grant several times and touched the boy's penis. He also showed him pornography. He claimed he experienced no sexual arousal from these interactions. He loved Grant's family and knew his actions were wrong and illegal. Baca considered himself bisexual and realized at the age of 12 or 13 he liked boys. Baca also admitted he hugged Garrett several times and massaged him when he complained of soreness from playing lacrosse. He touched Garrett's bottom during a massage. He once pulled Garrett into a bathroom because of disrespectful behavior at a supermarket. After the conversation ended, Baca offered to hug him, but Garrett declined because he did not "like them anymore."

Baca did not recall conversing with Tanner about sex. He testified a tear in the passenger seat of his car resulted from him pushing his hand down there for many years. According to Baca, the statement "what we talk about in the car stays in the car" occurred toward the end of the drive and was not made in conjunction with touching Tanner's hand.

Investigators found thousands of photographs of children being raped, sodomized, and orally copulated by men on Baca's computer. A forensic examiner recovered more than 500 videos depicting adults raping and sodomizing children, as well as 40 short stories about male sexual fantasies with young boys.

The jury found Baca guilty as charged, and found true special allegations of substantial sexual conduct and multiple victims. The trial court sentenced Baca to three consecutive terms of 15 years to life for committing lewd acts on a child under 14 years of age (counts 1, 2, and 10). The court imposed concurrent terms of 15 years to life for convictions on the seven other lewd acts alleged (counts 3 through 9). On the two remaining lewd act convictions, the court imposed a determinate term of six years and four months (count 14) and an eight month sentence (count 15) served consecutively with the sentences previously imposed. The aggregate term was 51 years and four months to life. Baca received credit for 792 days in custody (690 actual days and 102 days conduct credits) and the court ordered him to pay various costs, make restitution, and provide fingerprints and DNA samples per section 296.

II

DISCUSSION

A. *Substantial Evidence Supports Baca's Conviction for Attempted Lewd Acts Charged in Count 14*

Baca challenges the sufficiency of the evidence to support the conviction for attempted commission of a lewd act against Tanner (count 14). He argues no evidence showed he intended to obtain immediate sexual gratification when he attempted to hold Tanner's hand while driving. Substantial evidence, however, supports the jury's contrary conclusion.

We review the record in the light most favorable to the judgment below to determine whether it discloses substantial evidence, defined as evidence that is reasonable, credible, and of solid value. (*People v. Elliot* (2005) 37 Cal.4th 453, 466; *People v. Johnson* (1980) 26 Cal.3d 557, 576–578; *Jackson v. Virginia* (1979) 443 U.S. 307, 318–319.) The test is whether substantial evidence supports the verdict, not whether the evidence proves guilt beyond a reasonable doubt. (*People v. Crittenden* (1994) 9 Cal.4th 83, 139.) Thus, the court must affirm the judgment below unless "upon no hypothesis whatever is there sufficient substantial evidence to support it. [Citation.]" (*People v. Redmond* (1969) 71 Cal.2d 745, 755.) It is the jury's exclusive province to assess the credibility of the witnesses, resolve conflicts in the testimony, and weigh the evidence. (*People v. Sanchez* (2003) 113 Cal.App.4th 325, 330.) The fact that circumstances can be reconciled with a contrary finding does not warrant reversal of the judgment. (*People v. Bean* (1988) 46 Cal.3d 919, 932–933.) Accordingly, a defendant "bears an enormous burden" when challenging the sufficiency of the evidence. (*Sanchez,* at p. 330.)

Section 288, subdivision (a) provides in relevant part: "[A]ny person who willfully and lewdly commits any lewd or lascivious act . . . upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony . . . ." The statute is violated by touching *any part* of a child's body with the intent to arouse sexual desires of either the child or the perpetrator. (*People v. Martinez* (1995) 11 Cal.4th 434, 442; *People v. Raley* (1992) 2 Cal.4th 870, 907 [touching of a sexual organ not required].) The touching must be for the "present and immediate purpose" of sexual gratification. (*People v. Alvarez* (2002) 27 Cal.4th

1161, 1171.) An attempt to commit a crime requires a specific intent to commit it and a direct but ineffectual act done towards its commission that is beyond mere preparation. (See *People v. Imler* (1992) 9 Cal.App.4th 1178, 1181 [sufficient evidence of attempted lewd act where the defendant phoned minor and told him to disrobe and touch himself].) To determine sexual intent, the court considers the manner of touching and surrounding circumstances. (*People v. Martinez*, *supra*, 11 Cal.4th at 445.) Relevant factors include the defendant's statements, other acts charged or admitted in the case, the parties' relationship, and any coercion, bribery, or deceit used by the defendant to obtain the victim's cooperation. (*Ibid.*)

Baca insinuated himself into Tanner's family to gain access to the boy. On the date of the charged incident, he lied to Tanner's mother to drive with Tanner alone to a sports card store. En route home from the store, Baca asked Tanner if he knew how babies were made. He put his hand on top of Tanner's hand. Tanner yanked his hand away and Baca responded he "forgot" to tell Tanner where his "hand goes. You can put yours on top of mine, but that's where my hand belongs." He also told Tanner, "What is said in this car stays in this car" and warned "don't tell your parents."

Baca admits he touched Tanner's hand in the car but contends the "prosecution failed to prove beyond a reasonable doubt that [Baca] attempted to commit a lewd act by having the requisite present intent to receive or give immediate sexual gratification." We disagree.

The issue on appeal is whether substantial evidence supports the conviction, not whether the prosecution proved its case beyond a reasonable doubt, as Baca contends. Baca views the act of touching Tanner's hand as, at most, an overture toward future acts. But an overt act beyond mere preparation may appear as "innocent

behavior." (*People v. Reed* (1996) 53 Cal.App.4th 389, 398, quoting *People v. Dillon* (1983) 34 Cal.3d 441, 455) Given Baca's proclivity to take advantage of every opportunity to hug and touch young boys, his deceit in arranging circumstances so he would be alone with Tanner, and the evidence he would immediately take advantage of his young victims if they did not adamantly reject his advances, the jury reasonably could conclude Baca's actions went beyond mere preparation.

Indeed, the crime of committing a lewd act on a minor may be based on conduct having "'*the outward appearance of innocence*.'" (*Martinez, supra*, 11 Cal.4th at 444, original italics.) The controlling factor is the defendant's intent when touching the minor, not the type of touching. (*Ibid.*) "[A]ny touching" of any part of the victim's body is sufficient if done with the required intent to sexually arouse the defendant or the child. (*Id.* at pp. 442, 444.)

Because there was substantial evidence to show Baca committed a lewd act, he cannot complain because the jury chose to find him guilty of the lesser offense of attempt. (See *People v. Cuccia* (2002) 97 Cal.App.4th 785, 796 [substantial evidence of grand theft; the defendant cannot complain the jury chose to find him guilty of attempted grand theft]; *People v. Lowen* (1895) 109 Cal. 381, 384 [attempted burglary].)

B. *The Trial Court Did Not Violate Section 654 By Imposing Consecutive Sentences on Counts 9 and 11*

The jury convicted Baca of four counts of exhibiting harmful matter to a minor. (§ 288.2, subd. (a).)[1] Baca challenges the sentences concerning two of the

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[1] Section 288.2 provides in relevant part, "Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter, as defined in Section 313, to a

counts. Count 9 alleged Baca showed Grant harmful matter "on or about and between January 1, 2006 and July 4, 2007." As recounted above, Grant testified Baca played pornographic videos on several occasions when Baca molested him. Count 11 alleged Baca showed Garrett harmful material in Baca's apartment "on or about and between December 1, 2007 and December 18, 2008," which the parties agree involved the same incident described in count 10, when Baca touched Garrett's bottom during a massage in Baca's apartment. Garrett testified Baca played the video before and after he gave Garrett the massage.

Although Baca committed two "acts" on each occasion (showing harmful matter and lewd touching), he nevertheless argues "there was a course of conduct which violated more than one statute" constituting "an indivisible transaction" triggering section 654 and precluding the court from sentencing him on the lesser charge of exhibiting harmful matter. He argues the crimes were incidental to a single intent and objective "to engage in the lewd acts which occurred close in time to the exhibiting of the harmful material."

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minor with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of a minor, and with the intent or for the purpose of seducing a minor, is guilty of a public offense and shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 or in a county jail. [¶] A person convicted of a second and any subsequent conviction for a violation of this section is guilty of a felony." Section 313 defines "harmful matter" to include "matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors." (See also § 288.2, subd. (b) [defining "matter"].) The purpose of section 288.2 is to prohibit using obscene material "to groom young victims for acts of molestation." (*People v. Dyke* (2009) 172 Cal.App.4th 1377, 1384, fn. 4.)

Section 654 provides in relevant part, "An act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision." Section 654 "'"precludes multiple punishment for a single act or . . . course of conduct comprising indivisible acts. 'Whether a course of criminal conduct is divisible . . . depends on the intent and objective of the actor.' [Citations.] '[I]f all of the offenses were merely incidental to, or were the means of accomplishing or facilitating one objective, defendant may be found to have harbored a single intent and therefore may be punished only once.' [Citation.]" [Citation.]' [Citations.] However, if the defendant harbored 'multiple or simultaneous objectives, independent of and not merely incidental to each other, the defendant may be punished for each violation committed in pursuit of each objective even though the violations share common acts or were parts of an otherwise indivisible course of conduct. [Citation.]' [Citations.]" (*People v. Jones* (2002) 103 Cal.App.4th 1139, 1143.)

In *People v. Powell* (2011) 194 Cal.App.4th 1268, the jury convicted the defendant of unlawful sexual intercourse with a minor 10 years old or younger (§ 288.7, subd. (a)) and exhibiting harmful matter to a minor (§ 288.2, subd. (a)). The trial court imposed separate punishment for each conviction. The appellate court upheld the trial court's implicit finding the defendant harbored separate intents. "Defendant played the movies in an unavailing effort to arouse the victim sexually, an act and an intent punishable under section 288.2, subdivision (a). Conversely, defendant raped the victim to gratify himself, an act and an intent punishable under section 288.7, subdivision (a). As the People comment, '[defendant] intended to arouse [the victim], but also intended to

have sex with her regardless of whether she actually became aroused. Therefore, the two crimes had separate objectives because they were intended to arouse different people; and [defendant] had multiple intents, i.e., to arouse [the victim] for sex and to have sex with [the victim] even if she were not aroused.'" (*Powell* at p. 1296, fn. omitted; see *People v. Hairston* (2009) 174 Cal.App.4th 231.)

The reasoning applies here. Before committing his lewd acts, Baca showed the boys pornographic videos and asked his victims if they liked them. The trial court could have found that Baca exhibited the videos to groom the boys for sexual activity. Here, however, the court implicitly found Baca intended to molest the boys for his own gratification regardless of whether the boys became interested or aroused. Thus, the court concluded Baca harbored multiple criminal intents, the intent to seduce and the intent to gratify himself. Substantial evidence supports the trial court's findings Baca possessed independent objectives when he showed Grant and Garrett pornographic videos and molested them on the same occasions. Baca's contention therefore fails.

C. *Baca's Sentence of 51 Years to Life Does Not Constitute Cruel and/or Unusual Punishment*

Finally, Baca contends his aggregate sentence of 51 years and four months to life in prison constitutes cruel and/or unusual punishment. The trial court imposed consecutive 15-year-to-life terms under section 667.61 for the lewd act convictions charged in counts 1 (Grant), 2 (Grant), and 10 (Garrett).[2] The court also imposed a

[2] Section 667.61 provides that "(b) . . . any person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for 15 years to life." A lewd act conviction under section 288, subdivision (a) is an offense specified in section 667.61, subdivision (c)(8). One of the circumstances specified in section 667.61, subdivision (e) is "[t]he defendant has been convicted in the present case or cases of committing an

consecutive three-year term for the attempted lewd act conviction (count 14; Tanner), four consecutive eight-month terms for four counts of exhibiting harmful matter (counts 9, 11, 12 and 13), and a consecutive eight-month term for possession of child pornography (count 15).

The court imposed consecutive sentences because the crimes and their objectives were predominantly independent of each other (Cal. Rules of Court, rule 4.425(a)(1))[3], the crimes were committed at different times and places (rule 4.425(a)(3)), and the crimes were committed against separate victims. The court also found the crimes involved a high degree of cruelty, viciousness, and callousness because they occurred over a significant period of time and Baca had a reasonable opportunity to reflect on his actions (rule 4.421(a)(3)), the victims were particularly vulnerable (rule 4.421(a)(8)), the crimes involved planning and sophistication (rule 4.421(a)(11)), Baca took advantage of a position of trust (rule 4.421(b)(1)), and his conduct indicated a serious danger to society. The aggregate term was 51 years and four months to life in prison.

Baca was 29 years old at the time of sentencing and had no prior record. He notes he will not be eligible for parole for over 51 years, and contends his sentence is effectively a life sentence without the possibility of parole. He argues the sentence "shock[s] the conscience" and is "grossly disproportionate to his crime[s]" as "reviewed against the backdrop of [his] prior criminality and relative level of culpability compared to other sex offenders who receive multiple life sentences." We disagree.

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offense specified in subdivision (c) against more than one victim." (§ 667.61, subd. (e)(4).)

[3] All further rules are to California Rules of Court.

The Eighth Amendment to the United States Constitution "contains a 'narrow proportionality principle' that 'applies to noncapital sentences.' [Citations.]" (*Ewing v. California* (2003) 538 U.S. 11, 20 [sentence of 25 years to life for commercial burglary under California's "Three Strikes" law was not grossly disproportionate to the offense].) "A punishment violates the Eighth Amendment if it involves the 'unnecessary and wanton infliction of pain' or if it is 'grossly out of proportion to the severity of the crime.' [Citation.]" (*People v. Retanan* (2007) 154 Cal.App.4th 1219, 1230) The United States Supreme Court noted this principle is "applicable only in the 'exceedingly rare' and 'extreme' case. [Citations.]" (*Lockyer v. Andrade* (2003) 538 U.S. 63, 73; *Harmelin v. Michigan* (1991) 501 U.S. 957, 1001 [life without parole sentence for possessing 672 grams of cocaine not cruel and unusual]); *People v. Meneses* (2011) 193 Cal.App.4th 1087, 1092; cf. *Solem v. Helm* (1983) 463 U.S. 277, 296-297 [sentence of life imprisonment without the possibility of parole for uttering a no account check for $100 constituted cruel and unusual punishment]; *People v. Carmony* (2005) 127 Cal.App.4th 1066, 1079 [sentence of 25 years to life under California's Three Strikes law for failing to register as a sex offender cruel or unusual].)

California's constitutional proscription against cruel or unusual punishment is found in article I, section 17 of the California Constitution. The test under the state Constitution is whether the punishment is "so disproportionate to the crime for which it is inflicted that it shocks the conscience and offends fundamental notions of human dignity." (*In re Lynch* (1972) 8 Cal.3d 410, 424.) The defendant must demonstrate the punishment is disproportionate in light of (1) the offense and defendant's background, (2) more serious offenses, or (3) similar offenses in other jurisdictions. (*Id.* at pp. 429-437.)[4]

[4] Baca makes no effort to compare his sentence with more serious offenses in California or with punishments in other states for the same offense, which we take as a

The defendant must overcome a "considerable burden" to show the sentence is disproportionate to her level of culpability. (*People v. Wingo* (1975) 14 Cal.3d 169, 174.) As a result, "[f]indings of disproportionality have occurred with exquisite rarity in the case law." (*People v. Weddle* (1991) 1 Cal.App.4th 1190, 1196.)

Baca's offenses are not merely passive felonies such as failing to register as a sex offender or uttering a "no account" check. Rather, he committed 15 criminal offenses, including multiple lewd acts on children under the age of 14, exhibiting harmful matter to minors, and possession of child pornography. His offenses spanned several years and involved multiple victims. Baca, as the minor victims' sports coach and family friend, took advantage of the trust these boys placed in him.

The Legislature designed Section 667.61 to ensure serious sex offenders receive long prison sentences, even those without a prior criminal record. (*People v. Palmore* (2000) 79 Cal.App.4th 1290, 1296) The Legislature's sentencing scheme is designed not only to deter, but to incapacitate those defendants likely to reoffend. (See *People v. Alvarado* (2001) 87 Cal.App.4th 178, 187.) Pedophiles have a high recidivism rate and lack amenability to rehabilitation. (*People v. Jeffers* (1987) 43 Cal.3d 984, 994-996 ["A pedophile or fixated offender" is "defined as a man (there are virtually no female pedophiles) who throughout life is sexually attracted exclusively to children, usually boys, within a particular age range"]; *People v. Groomes* (1993) 14 Cal.App.4th 84, 89.)

Moreover, child abuse can have a severe and long lasting effect on a child. (*Kennedy v. Louisiana* (2008) 554 U.S. 407, 435 ["the victim's fright, the sense of betrayal, and the nature of her injuries caused more prolonged physical and mental

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concession that his sentence withstands a constitutional challenge on either basis. (*People v. Retanan, supra,* 154 Cal.App.4th at p. 1231; *People v. Crooks* (1997) 55 Cal.App.4th 797, 808 [defendant bears burden of establishing disproportionality].)

suffering than, say, a sudden killing by an unseen assassin"; "attack was not just on her but on her childhood"; rape "has a permanent psychological, emotional, and sometimes physical impact on the child"; "[w]e cannot dismiss the years of long anguish that must be endured by the victim of child rape."].) Convictions for multiple sexual offenses exceeding a defendant's expected lifetime have repeatedly passed constitutional muster. (See, e.g., *People v. Wallace* (1993) 14 Cal.App.4th 651, 666 [283-year sentence for 46 sex crimes against seven victims]; *People v. Bestelmeyer* (1985) 166 Cal.App.3d 520, 532 [129 years for 25 sex crimes against one victim].)

Here, the record reflects Baca poses a continuing danger to other young boys. On a test to measure the risk of recidivism, Baca placed in the "Medium-High Risk Category" for committing another sexual offense. Baca's molestations also negatively impacted his victims. Grant's mother noted the boy's "childhood and innocence was stripped away. . . . He has been filled with fear, unmerited guilt and anger. . . ." Tanner's mother acknowledged her son "has been tainted, especially with regard to his trust of authority figures."

Based on the foregoing, we conclude defendant's sentence does not constitute cruel or unusual punishment under either the United States or California Constitutions.

III

DISPOSITION

The judgment is affirmed.

ARONSON, J.

WE CONCUR:

BEDSWORTH, ACTING P.J.

MOORE, J.